

In the United States Court of Federal Claims

GENERAL ORDER No. 42A

INTERIM PROCEDURES FOR ELECTRONIC CASE FILING

The following provisions, effective November 4, 2004, supersede General Order No. 2003-42, issued March 10, 2003. These provisions will eventually be superseded by a formal amendment to the court's rules.

For purposes of these provisions: "ECF System" means the court's system for electronic filing; "Filing User" or "ECF Filing User" means a member of the court's bar to whom the court has issued a log-in and password to file documents electronically using the ECF System; and a "filing" or an "ECF filing" means any document, paper, pleading, appendix, exhibit, or other matter that is submitted and filed electronically. In proceedings before this court under the National Vaccine Injury Compensation Program, the term "assigned judge" shall mean either a judge or special master of this court, as appropriate.

References to the RCFC are to the Rules of the United States Court of Federal Claims, as amended through August 1, 2004.

I. Scope of Electronic Filing

1. The court shall designate which cases shall be assigned to the ECF System ("ECF cases") and the Clerk shall notify counsel that their case has been so assigned. All ECF cases shall be listed on the court's website – <http://www.uscfc.uscourts.gov>. Except as provided below and in exceptional circumstances preventing a Filing User from filing electronically, every filing in an ECF case shall be made electronically using the ECF System.

2. The filing of initial papers, including the complaint, and the payment of any initial filing fee shall be accomplished in the traditional manner in accordance with the RCFC rather than electronically. For cases assigned to the ECF System, all subsequent filings shall be made electronically, except as provided below or as ordered by the assigned judge.

3. Unless otherwise ordered by the assigned judge, a Filing User shall submit in electronic form all documents referenced as exhibits or attachments. All documents with exhibits and attachments shall be filed together under one entry number and shall include only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. See paragraph 4 for size limitations. Excerpted material shall be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this rule may timely seek leave to file additional excerpts or the complete document; responding parties may timely file additional excerpts that they believe are directly germane or the complete document.

4. An ECF filing (*e.g.*, a brief or memoranda and an appendix) may be broken into

several Adobe PDF files. Unless otherwise ordered by the assigned judge, each such Adobe PDF file shall not exceed 2 megabytes in size. Counsel shall endeavor to limit the total number of Adobe PDF files constituting an ECF filing. The CM/ECF User Guide, available on the court's website, provides suggestions on how to minimize the size of scanned files. For files that would exceed this limitation, the Filing User shall seek appropriate relief from the assigned judge, who may, for example, authorize the filing in some other electronic format (*e.g.*, a CD-Rom) or in paper form.

5. Unless otherwise ordered by the assigned judge, where documents, including exhibits or attachments, would exceed 50 pages when printed, the Filing User shall supply chambers with a courtesy copy of the document in paper form. The assigned judge may order the parties to supply courtesy copies in paper form of any ECF filing.

6. Documents filed electronically under the National Vaccine Injury Compensation Program shall be placed under seal unless and until the assigned judge orders otherwise.

7. All other documents to be placed under seal shall not be filed electronically unless and until authorized by the assigned judge. A motion to file documents under seal may be filed electronically, unless prohibited by law. The documents to be filed under seal shall not be attached to the motion, but shall be filed after the motion is granted. The order of the assigned judge authorizing the filing of documents under seal may be filed electronically, unless prohibited by law.

II. Eligibility, Registration, Passwords, Exemption

8. An attorney admitted to the bar of this court may register as a Filing User using the form prescribed by the clerk, a copy of which is available on the court's website.

9. By registering as a Filing User, an attorney consents to electronic service of all filings.

10. Once registered, a Filing User will be notified of his or her user log-in and password. A Filing User shall protect the security of that password and immediately notify the clerk if it appears to have been compromised. A Filing User may be subject to sanctions for failure to comply with this provision.

11. Notwithstanding the foregoing, an individual not registered as a Filing User may, for good cause, seek to be exempted from submitting filings electronically, by filing an appropriate motion.

III. Consequences of Electronic Filing

12. Electronic transmission of a document to the ECF System consistent with this General Order, together with the transmission of a "Notice of Electronic Filing" from the court, constitutes filing of the document under RCFC 5 and entry of the document on the docket kept by the clerk under RCFC 58 and 79.

13. For ECF filings, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently submitted electronically, an ECF filing is deemed filed on the date and at the time stated on the Notice of Electronic Filing transmitted by the court.

14. Unless otherwise ordered by the assigned judge, an electronic filing shall be completed before midnight local time in Washington, D.C., to be considered timely filed on that day.

IV. Signatures and Related Matters

15. The user log-in and password serve as the Filing User's signature on all ECF filings for all purposes, including those under RCFC 11.

16. If possible, each ECF filing shall, on the first page thereof, contain a banner stating that it was "Electronically Filed on [date]." ECF filings shall include a signature block in compliance with RCFC 11(a). As part of that block, the name of the Filing User under whose log-in and password the document is submitted shall be preceded by a "s/" and shall be typed in the space where the signature would otherwise appear. Alternatively, a party may file a scanned document that contains a written signature. A filing that does not comply with these signature requirements shall be deemed to violate RCFC 11 and may be stricken.

17. No Filing User or other person may knowingly permit or cause a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

18. Documents requiring signatures of more than one party shall be filed electronically by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; or (3) in any other manner approved by the assigned judge. For further guidance, *see* paragraph 29.

V. Service of Documents by Electronic Means

19. The ECF System automatically generates a Notice of Electronic Filing at the time a document is filed and automatically sends this notice to all case participants who are ECF Filing Users. As to case participants who are ECF Filing Users, the ECF System satisfies the service requirement of RCFC 5 and the proof of service requirement of RCFC 5.1. A participant in the case who is not an ECF Filing User shall be served with the Notice of Electronic Filing (but not the underlying filing) by e-mail, hand, facsimile, or first-class postage prepaid.

VI. Entry of Court Orders, Notice of Court Orders, Judgments, Appeal

20. All orders, opinions, judgments, and proceedings of the court in ECF cases shall be filed in accordance with this General Order, and such filing shall constitute entry on the docket kept by the clerk under RCFC 58 and 79. Such filings shall have the same force and effect as if

the assigned judge had affixed his or her signature to a paper copy thereof and it had been entered on the docket in the traditional manner.

21. When an order, opinion, or judgment is entered in an ECF case, the ECF System will concurrently and automatically transmit to the Filing Users in that case a Notice of Electronic Filing. This transmission constitutes the notice required by RCFC 77(d).

22. If an order specifies the due date for filing a document, that date shall control over any other filing deadline listed on the docket for that document.

23. A notice of appeal to the United States Court of Appeals for the Federal Circuit shall be filed, and fees paid, in the traditional manner in accordance with the RCFC, rather than electronically.

VII. Privacy

24. ECF Filing Users are advised that any personal information in an ECF Filing that is not otherwise protected will be made available over the Internet via Web Pacer. In compliance with the E-Government Act of 2002, a Filing User shall not include sensitive information in any ECF filing unless such inclusion is necessary and relevant to the case.

25. The following personal identifiers shall be excluded, or redacted where inclusion is necessary, from all ECF filings, unless otherwise ordered by the assigned judge:

(1) **Social Security numbers** – if an individual's Social Security number must be included in a pleading, only the last four digits of that number should be used;

(2) **Names of minor children** – if the involvement of a minor child must be mentioned, only the initials of that child should be used;

(3) **Dates of birth** – if an individual's date of birth must be included in a pleading, only the year should be used; and

(4) **Financial account numbers** – if financial account numbers are relevant, only the last four digits of these numbers should be used.

26. A Filing User may file an unredacted document containing the personal data identifiers listed above under seal, either upon the granting of the Filing User's motion, *see* paragraphs 6 and 7, or upon other order of the assigned judge. The unredacted document shall be retained by the court as part of the record. The assigned judge may, however, require the Filing User to file a redacted copy for the public file.

27. A Filing User should exercise caution when filing documents that contain any of the following:

- (1) A personal identifying number, such as a driver's license number;
- (2) Medical records, treatment and diagnosis;
- (3) Employment history;
- (4) Individual financial information;
- (5) Proprietary or trade secret information.

28. Counsel are strongly urged to share the information in paragraphs 24-27 with all clients so that an informed decision about including, redacting, or excluding certain materials may be made. It is the sole responsibility of counsel and the parties to ensure that all pleadings comply with the paragraphs of this order requiring redaction of personal identifiers. The clerk's office will not review each pleading for compliance with these provisions.

VIII. Retention, Technical Failure, Public Access

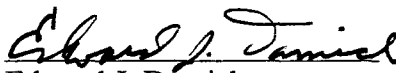
29. Documents that are filed electronically and require original signatures other than that of the Filing User (*e.g.*, affidavits, joint status reports) shall be maintained in paper form by the Filing User until three years after all periods for appeal expire. On request of the assigned judge, the Filing User shall provide the original documents for review.

30. A Filing User whose filing is deemed untimely as the result of technical failure of the ECF System may seek appropriate relief from the assigned judge. Should the ECF System be inaccessible for any significant period of time, the clerk may deem the clerk's office inaccessible under RCFC 6.

31. The public may review ECF filings at the clerk's office. A person may also access the ECF System at the court's website – <http://www.uscf.uscourts.gov> – by obtaining a PACER log-in and password. Information on how to obtain a PACER log-in and password is available either at <http://pacer.psc.uscourts.gov> or by calling (800) 676-6856.

Date: November 4, 2004

BY THE COURT


Edward J. Damich
Chief Judge